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ILLINOIS INHERITANCE TAX. — The recent decision of the Supreme Court of the United States upholding the validity of the Illinois Inheritance Tax Act, *Magoun* v. *Illinois Trust and Savings Bank* (reported in Chicago Legal News, May 7th), derives considerable interest from the practical importance of the result, as well as the fact that the opinion is delivered by the new member of the court, Mr. Justice McKenna. The case does not seem, however, to cast any new light upon the principles of constitutional law; as in truth the constitutional objections which the appellants attempted to raise to the validity of the law appear to offer no serious difficulties. Inheritance tax laws, substantially similar to that of Illinois, have been passed in many of our States, as well as in England, and have received considerable attention from our courts. Such a tax has universally been recognized as a proper exercise of legislative power, and as being in substance a tax upon the right of succession created by laws concerning testamentary disposition and distribution in intestacy, and not a tax directly upon property. The constitutional objections which have been raised have usually been directed to the classification or system of exemptions in a particular law, and have been alleged to arise under provisions in State constitutions prescribing uniformity of taxation. These objections have generally been held by the State courts to have no force; though in New Hampshire, Ohio, and a few other States they have been sustained by a somewhat narrow construction, as it would seem, of particular clauses of State constitutions. The courts of the United States have, in several cases, recognized such taxes as legitimately imposed by the States upon the right of succession. *United States* v. *Perkins*, 163

A CORRECTION. — In a recent NOTE, 11 HARVARD LAW REVIEW, 541, it was stated that one Von der Ahe, whose arrest by his bail was in question, was the defendant in an action of debt. This we find to have been error. Von der Ahe was the defendant in an action of malicious prosecution; the case went against him, and he appealed. The bail piece on which he was arrested was issued upon his appeal bond. This correction does not affect the law as stated in our NOTE. — ED.

U. S. 625. The case under discussion would appear, however, to be the first in which a contention has been clearly made and carried up to the Supreme Court of the United States, that such a tax was obnoxious to the Fourteenth Amendment of the Federal Constitution. The appellants apparently despaired of convincing the court that the tax would deprive them of their property without due process of law, but insisted that it was in conflict with the clause forbidding the States to deny to any citizen the equal protection of the laws. The court, in an extremely well written opinion by Mr. Justice McKenna, returns the answer that might have been expected. The phrase "equal protection of the laws" is so evidently intended to be indefinite that the court has never attempted to fix its meaning. They have often declared, however, that almost no classification of persons for purposes of taxation can be held to interfere with this provision of the Constitution, so long as all within a class are treated alike. Only a discrimination obviously based on grounds wholly foreign to the proper ends of government could be held unconstitutional. In the Illinois Inheritance Tax Law, as in all other similar laws, there is a classification which seriously affects the operation of the tax; the division depending in the first place on the degree of relationship of the legatee to the testator, and secondly, on the amount of the legacy. The division rests in the first case on obvious natural grounds, and in the second case on economic principles long recognized in the tax laws of every country. This decision of the Supreme Court, it may be hoped, will finally settle the validity of all such laws under the Federal Constitution; while the line of reasoning pursued in the opinion may tend to dissuade State courts from a narrow construction of restraints imposed by State constitutions upon the power of taxation.

Charitable Institutions and the Rule of Respondeat Superior. — In carrying on the functions of government, it is often needful to delegate to boards of individuals some portion of the governmental power. Such boards, in the absence of personal neglect, are not answerable for the faults of the servants they officially employ. The reason given is that the servants also become agents of the government. Non-governmental corporations engaged in rendering gratuitous services to the public, in view of their essentially public character, were at first regarded as falling under the class of governmental boards. *Holiday* v. *St. Leonards*, 11 C. B. N. S. 192. Later cases, however, notably *Mersey Docks Trustees* v. *Gibbs et al.*, 11 H. L. 686, have settled the law for England that only corporations with strictly governmental powers are to be exempt from this liability. American courts have generally held that charitable corporations were not liable. The first cases followed *Holiday* v. *St. Leonards*, *supra*, and treated charitable corporations as governmental corporations. But the reasoning of the later English cases soon led them to abandon this position, and they now base their decisions on the ground of a distinct exception to the rule of *respondeat superior*. *Hearns* v. *Waterbury Hospital*, 66 Ct. 98. See 9 Harvard Law Review, 541. The last case on the point is *Ward* v. *St. Vincent's Hospital*, 52 N. Y. Sup. 466. Here the corporation was a public charitable institution, which did no business for profit, and which devoted the sums received from the patients who wished to pay, to the current expenses. The plaintiff was a pay patient, and was severely burned through the negligence of a nurse. The court